REMARKS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-28 and 52-59 are currently pending, with Claims 58 and 59 being withdrawn by the Examiner. Claims 1, 2, 18, 58, and 59 have been amended by the present amendment. The changes to the claims are supported by the originally filed specification and do not add new matter.

In the outstanding Office Action, Claims 58 and 59 were objected to as being distinct from the originally filed claims and were withdrawn; Claim 1 was rejected under 35 U.S.C. §112, second paragraph, as being unclear on lines 13 and 20; and Claims 1-28 and 52-57 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,990,927 to Hendricks et al. (hereinafter "the '927 patent") in view of U.S. Patent No. 5,649,283 to Galler et al. (hereinafter "the '283 patent").

Applicants wish to thank the Examiner for the interview granted Applicants representative on July 17, 2006, at which time the outstanding rejection of the claims was discussed. At the conclusion of the interview, the Examiner indicated that Claim 1 would likely distinguish over the cited references if the control means was rewritten to more clearly recite the claimed subject matter.

Applicant respectfully submits that the objections to Claims 58 and 59 are rendered moot by the present amendment to those claims. Claims 58 and 59 have been amended to be directed to computer-implemented methods. Moreover, Applicant respectfully submits that Claims 58 and 59 recite limitations analogous to the limitations recited in Claims 1 and 18, respectively. Accordingly, Applicant respectfully submits that that Claims 58 and 59 are not patentably distinct from Claims 1 and 18 and that the restriction should be withdrawn.

Applicant respectfully traverses the rejection of Claim 1 under 35 U.S.C. §112, second paragraph. Regarding the rejection based on line 13 of Claim 1, Applicant respectfully submits that the decision means recited in Claim 1 is clear and definite. In particular, Applicant notes that Claim 1 recites a decision means for checking whether the data sent from the first sending receiving means is data corresponding to new content. Accordingly, the second use of the word "data" refers back to the first use of the word "data" in that limitation. Thus, Applicant believes the Examiner is merely reading the quoted phrase "said first sending receiving means is data" out of context and should read the entire limitation as a whole. Further, regarding line 20, it is unclear to Applicant what limitation the Examiner finds to be unclear. Claim 1 recites a second storage means for storing data as well as a second sending receiving means for receiving the data. The control means limitation recited in Claim 1 refers back to "said second storage means." Thus, Applicant again believes that the Examiner is reading a selected number of words together out of context and is not considering the entire limitation. For the reasons stated above, Applicant respectfully traverses the rejection of the claims under 35 U.S.C. §112, second paragraph.

Claim 1 is directed to a data sending receiving apparatus, comprising: (1) first storage means for holding data including a plurality of content; (2) a retrieval means for retrieving the data stored in the first storage means; (3) first sending receiving means for sending the data retrieved by the retrieval means, the first sending receiving means receiving request information for content from a user and supplying the received request information to the retrieval means; (4) decision means for checking whether the data sent from the first sending receiving means is data corresponding to new content; (5) second sending receiving means for receiving the data sent from the first sending receiving means and for sending the request information; (6) second storage means for storing data received by the second sending receiving means; and (7) control means for controlling automatic storage of the data received

by said second sending receiving means in the second storage means when results of checking by the decision unit means verify that the data sent from the first sending receiving means is data corresponding to the new content. Claim 1 has been amended to correct minor informalities and no new matter has been added. Moreover, Applicant respectfully submits that the changes to Claim 1 are minor and should be entered by the Examiner.

Regarding the rejection of Claim 1 under 35 U.S.C. §103, the Office Action asserts that the '927 patent discloses everything in Claim 1 with the exception of "... verifying the data is new content," and relies on the '283 patent to remedy that deficiency.[1]

The '927 patent is directed to a set-top terminal for cable television delivery systems. As shown in Figure 1, the '927 patent discloses a network controller 214, an operation center 202, uplink sites 204, and a set-top terminal 220 operated by a remote 900. Further, the '927 patent discloses that the set-top terminal supports menu generation, picture-on-picture displays, program catalog services, interactive services, telephone caller identification, digital audio reception, VCR control, HDTV reception, and satellite system interoperability.[2] However, as admitted in the Office Action, the '927 patent fails to disclose decision means for checking whether the data sent from the first sending receiving means is data corresponding to new content, as recited in Claim 1. Accordingly, Applicant respectfully submits that the '927 patent must also fail to disclose control means for controlling automatic storage of data in the second storage means when results of checking by the decision means verify that the data sent from the first sending receiving means is data corresponding to the new content, as recited in Claim 1.

The '283 patent is directed to a method to verify that a cable television consumer is receiving and displaying a correct program on the television set. The '283 patent discloses that the '283 invention is important in the context of pay-per-view events because the

[1] See page 3 of the outstanding Office Action.
[2] Abstract of the '927 patent.

consumer has paid for the program and it is important that the consumer is receiving the program. As shown in Figure 3, the '283 patent discloses that if the user orders a particular program, the system transmits an "initial video content of the program" to the user so that when the program starts, the controller at the consumer's set-top box can use a frame-grabber circuit to grab an initial portion of the broadcast program and to analyze the stored portion with respect to the initial video content. Further, the '283 patent discloses that if the stored portion is not the same as the initial video content, the controller of the set-top terminal transmits an error message to the system computer. Further, the '283 patent discloses a variation of this idea in that the program can be periodically sampled and compared to stored, expected video content at any time during the presentation of the program. However, Applicant respectfully submits that the '283 patent fails to disclose control means for controlling automatic storage of data in the second storage means when results of checking by a decision means verify that the data sent from the first sending receiving means is data corresponding to the new content, as recited in Claim 1. Rather, the '283 patent discloses that if the received content is not the same as the stored portion, an error message is sent. Applicant respectfully submits that this is very different from the claimed system in which, when it is determined that received data is new content, the new content data is stored, as recited in Claim 1. The '283 patent does not disclose a system in which data is stored after determining it is new content. Rather, the '283 patent discloses that, in effect, an error message is sent if the incoming data does not match the stored data.

Thus, no matter how the teachings of the '927 and '283 patents are combined, the combination does not teach or suggest control means for controlling the automatic storage of data in the second storage means when results of checking by the decision means verify that the data sent from the first sending receiving means is data corresponding to new content, as recited in Claim 1. Accordingly, Applicant respectfully submits that a *prima facie* case of

obviousness has not been established and that the rejection of Claim 1 (and dependent Claims 2-17 and 52-54) should be withdrawn.

Independent Claim 18 recites limitations analogous to the limitations recited in Claim 1. Accordingly, for the reasons stated above for the patentability of Claim 1, Applicant respectfully submit that a *prima facie* case of obviousness has not been established and that the rejection of Claim 18 (and dependent Claims 19-28 and 55-57) should be withdrawn.

Thus, it is respectfully submitted that independent Claims 1 and 18 (and all associated depending claims) patentably define over any proper combination of the '927 and '283 patents.

Consequently, in view of the present amendment and in light of the above discussion, the outstanding grounds of rejection are believed to have been overcome. The application as amended herewith is believed to be in condition for formal allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
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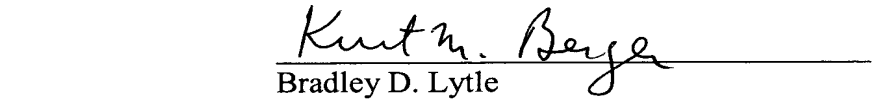

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